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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,879

12/05/2003

Antonin A. Meibock

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9160

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12/15/2006

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EXAMINER

RESTIFO, JEFFREY J

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,879

Applicant(s)

MEIBOCK, ANTONIN A.

Examiner

Jeffrey J. Restifo

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26, 29-50 and 52-129 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 42-50 and 52-129 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6-9, and 38-41 is/are rejected.
- 7) ☒ Claim(s) 3, 5, 10-26 and 29-37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer (US 5,462,295 A) and in further view of Labonte et al. (US 6,871,424 B2) and Lin (US 6,775,932 B2).

Seltzer discloses a skate boot comprising a base 19 with an upper face and lower face, and an upper support for a user's ankle having a first rigidity at a point near a user's ankle and a second rigidity at lower regions of the boot, as shown in figures 1-15 and recited in column 6, lines 52-67 and column 9, lines 5-18. Seltzer does not disclose the higher rigidity extending upward towards the ankle area of the boot or inner and outer liners. Labonte et al. does disclose a skate with increase rigidity around the ankle portion 42 of a molded boot, with inner liner 40, as shown in figures 7 and 11. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the increase rigid ankle portion of Labonte et al. in order to provide protect and support for the lower foot area and inner liner in order to increase user foot comfort.

Neither Seltzer nor Labonte et al. disclose an outer shell. Lin does disclose a boot having an outer shell 121, as shown in figure 5. It would have been obvious to one

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having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer as modified by Labonte et al. with the outer shell of Lin in order to provide a decorative means to the boot.

3. Claims 2, 4, and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, Labonte et al., and Lin, as applied to claims 1 above, and further in view of Baikie (US 3,934,892 A).

Seltzer does not disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer, Lin, and Labonte et al. with the skate attachment of Baikie in order to remove and replace the skate mechanism. Threaded fasteners are well known in the art as an option to rivets.

With respect to claims 6, 8, and 9, reversing the male female connection or using rivets is well known in the art of fasteners and it would have been obvious to one having ordinary skill in the art at the time of the invention to have used any well known fastener in order to secure the skate mechanism of Baikie to the skate boot and base of Seltzer.

Allowable Subject Matter

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4. Claims 3, 5, 10-26, and 29-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 42-50 and 52-129 are allowed.

Response to Arguments

6. Applicant's arguments filed 10/4/06 have been fully considered but they are not persuasive.
7. With respect to the applicant's arguments concerning claim 1, the outer lining of Labonte et al. is for reinforcing and supportive purposes, not just decorative, further the reinforcing ribs affect the boots rigidity and inner and outer linings are disclosed in figure 11.
8. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

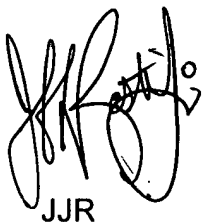
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on M-F 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JJR

Jeffrey J Restifo
Primary Examiner
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